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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/728,668 | 12/04/2003 | James M. Rittenhouse | 4629-005 | 8852 |
| 22440 | 7590 | 01/31/2005 | EXAMINER | |
| GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601 | | | ADDIE, RAYMOND W | |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 3671 |

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/728,668 | RITTENHOUSE ET AL. | |
| Examiner | Art Unit | | |
| Raymond W. Addie | 3671 | | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 06 May 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-45 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-27 and 36-45 is/are rejected.
 7) Claim(s) 28,29 and 30-35 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 03 December 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. _____.
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____. 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spring (34) of claim 2; the spring "is mounted on a platform movable with respect to said base" of claim 7; the spring ends capable of moving relative to said base, as in claim 5, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures.

If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Although the Specification states that the "spring 34 is a gas-filled strut"; the claims specifically require a spring, that is not shown in the drawings.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-13, 15-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear as to how both of the spring ends are capable of moving relative to the base or what function such an arrangement performs or provides for.

Further, the diagrams do not show how the spring (34) in the form of a gas-filled strut would have 2 ends both movable relative to base plate 2.

Hence, it is indefinite as to what limitations are actually being claimed, nor what one of ordinary skill in the art, would consider to be an equivalent structure or relationship between structural features.

In regards to claim 7, it is unclear as to whether the spring is movable with respect to the base, or whether the platform is movable with respect to the base.

For Examination, the limitation is seen only to require the spring to be movable relative to the base.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartwig # 4,875,797.

Hartwig discloses a parking barrier apparatus (1) for controlling access of a vehicle past said barrier apparatus. Said apparatus comprising:

A barrier (9) movable between a 1st barrier position that allows transit of the vehicle past said barrier; a 2nd barrier position to which said barrier is moved by passage of the vehicle over said barrier, and a 3rd barrier position, that impedes movement of the vehicle past said barrier. Said 1st barrier position being intermediate said 2nd and 3rd positions.

A locking mechanism (17, 19) able to selectively lock said barrier in said 2nd and 3rd positions.

A motive assembly (5) having an energy storage device, such as spring (7) which stores mechanical energy to eventually move said barrier from said 2nd position to said 3rd position, when said barrier is unlocked from said 2nd position.

Wherein said spring is energized by the weight of the vehicle moving over said barrier causing said barrier to move from said 1st barrier position to said 2nd barrier position.

Further wherein said motive assembly (5) is disposed within a housing (13, 14) having a base (4) and said spring includes a 1st spring end, and a 2nd spring end, such that both ends are capable of moving relative to said base. See col. 2, Ins. 7-col. 3, ln. 6.

4. Claims 36-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner et al. # 6,398,452.

Wagner et al. discloses a method for sequencing movement of a parking barrier, the barrier having a vertical, vehicle-impeding position; a horizontal non-impeding position; and at least one lower, non-impeding position.

The steps comprising:

Locking a barrier (9) in said vertical position against a bias force, such as gravity;
Unlocking said barrier so that said barrier moves to a horizontal position, under the influence of the biasing force.

Maintaining said barrier in said horizontal position until sufficient force is applied to said barrier to move it to a lower, non-impeding position.

Energizing a spring as said barrier is moved from said horizontal position to said lower non-impeding position.

Providing sufficient energy in said spring to enable said spring to eventually move said barrier from the lower, non-impeding position to the vertical vehicle impeding position.

Locking said barrier in said ramp position with said spring energized until it is desired to move said barrier from said lower, non-impeding position to said vertical position.

Unlocking said barrier from said lower, non-impeding position, to allow said barrier to move to said vertical position.

Wherein said spring is energized by the weight of a vehicle as the vehicle moves the barrier from a horizontal position to said lower non-impeding position. See col. 11, ln. 6-col. 12, ln. 22.

In regards to claims 38-40 Wagner et al. discloses the method steps of:

Providing a remote control transmitter that can provide; A command signal to unlock the barrier from said vertical and said lower, non-impeding positions. See col. 11, Ins. 28-52.

In regards to claims 43-45 Wagner et al. discloses the method steps of:

Providing a command signal to unlock said barrier from the vertical position, via a remote control transmitter. See col. 11, Ins. 28-52.

Claim Rejections - 35 USC § 103

5. Claims 1-9, 13, 15, 16, 20, 21, 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boswell # 6,619,629 in view of Wagner et al. # 6,298,452 B1. Boswell discloses a parking barrier apparatus (3) for controlling the access of a vehicle to an area. Said barrier apparatus comprising:

A barrier (14) movable between a 1st, vertical vehicle-impeding position and a plurality of inclined/horizontal positions, relative to the ground (4).

A shaft (10) operatively connected to and moving said barrier (14).

What Boswell does not disclose is a motive assembly or locking mechanism, for mechanically-assisting movement of the barrier.

However, Wagner et al. teaches parking barriers are advantageously provided with motive and locking assemblies in order to remotely control raising and lowering of the barrier (9). See col. 6, Ins. 1-27.

Said motive assembly (11) having an energy storing device, such as a coil spring (78), that stores mechanical energy to selectively move a barrier plate (9) to a vertical, vehicle-impeding position. See col. 9, Ins.41-67; col. 11, Ins. 57-col. 12, In. 3, to include col. 12, Ins. 14-26.

Said locking mechanism (30, 40, 60, 66, 70, 72) being capable of selectively locking said barrier (9) in said plurality of inclined and horizontal positions. See col. 8, ln. 39-col. 9, ln. 65.

Such that said spring (78) is energized by the weight of the vehicle moving over said barrier causing said barrier to move from a generally horizontal position to a generally lower position. See Col. 9, Ins. 57-67.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the barrier of Boswell, with a remotely controlled, spring-biased motive and locking assembly, as taught by Wagner et al., in order to make the barrier remotely controllable. See col. 12, Ins. 14-45.

In regards to claims 5, 6 Boswell discloses the barrier (14) is operatively connected to a rotatable shaft (10) and rotation of said shaft (10) moves said barrier. What Boswell does not disclose is a motive assembly for moving the barrier from a lowered position, adjacent the ground, to a vertical, vehicle-impeding position. However, Wagner et al. teaches parking barriers are advantageously provided with a motive assembly in order to remotely control raising and lowering of the barrier plate (9). See col. 6, Ins. 1-27.

Said motive assembly being within a housing (12), having a base (8). Said spring having 1st and 2nd ends that are capable of moving relative to said base. See col. 9, Ins. 47-54.

Thus providing means to energize the motive assembly for eventual motion of the barrier plate (9). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the barrier of Boswell, with a remotely controlled, spring-biased motive and locking assembly, as taught by Wagner et al., in order to make the barrier remotely controllable. See col. 12, Ins. 14-45.

In regards to claims 7-9 Boswell discloses the barrier (14) is operatively connected to a rotatable shaft (10) and rotation of said shaft (10) moves said barrier. What Boswell does not disclose is a motive assembly for moving the barrier from a lowered position, adjacent the ground, to a vertical, vehicle-impeding position. However, Wagner et al. teaches a motive assembly, comprising a spring (78) mounted on a platform (72) movable with respect to said base (8). Wherein said platform (72) is capable of moving toward a barrier rotating shaft (96), such that as the platform (72) moves toward said shaft (96) the spring (78) is substantially compressed. See col. 9, ln. 41-67. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the barrier of Boswell, with a remotely controlled, spring-biased motive and locking assembly, as taught by Wagner et al., in order to make the barrier remotely controllable. See col. 12, Ins. 14-45.

In regards to claims 13, 15, 16, 20, 21 Boswell discloses Boswell discloses the barrier (14) is operatively connected to a rotatable shaft (10) and rotation of said shaft (10) moves said barrier. What Boswell does not disclose is a motive assembly for moving the barrier from a lowered position, adjacent the ground, to a vertical, vehicle-impeding position. However, Wagner et al. teaches a motive assembly, comprising a spring (78) having a damper (74) which dampens movement of said barrier as said barrier is moved from a generally horizontal position, to a generally lowered position. And that the locking mechanism comprises a shaft locking/platform locking mechanism (28) for selectively locking rotational shaft (96) and the platform (72) to prevent rotation in at least one direction, such that the locking mechanism (28) includes a latch lock which self-latches once said shaft reaches a locking position.

See col. 5, Ins. 46-55; col. 6, Ins. 4-35; col. 11, Ins. 6-26.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boswell # 6,619,629 in view of Wagner et al. # 6,298,452 B1, as applied to claim 13, and further in view of Nasatka # 5,228,237. Boswell in view of Wagner et al. disclose a spring-biased, remotely controlled barrier assembly, but does not disclose the use of a gas-spring. However, Nasatka teaches it is known that hydraulic and gas springs, as well as spring assemblies are commonly interchangeable as motive devices, within a vehicle barrier device for the purpose of raising and lowering the barrier.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the barrier assembly of Boswell in view of Wagner et al., with a gas spring, as taught by Nasatka, since coil springs and gas springs are equivalent structure.

See Nasatka Col. 6, Ins. 54-68.

7. Claims 17-19, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boswell # 6,619,629 in view of Wagner et al. # 6,298,452 B1, as applied to claim 16 above, and further in view of Worsham # 6,150,958.

Boswell in view of Wagner et al., disclose a parking barrier apparatus (3) for controlling the access of a vehicle to an area. The parking barrier apparatus having a spring biased motive assembly for raising the barrier and a remotely controlled, solenoid-based locking assembly (11) for preventing motion of the barrier member. What Boswell in view of Wagner et al. do not disclose is the use of an actuator in the form of a motor and gearing assembly. However, Worsham '958 teaches that gas/hydraulic cylinders as well as solenoids and reversible DC motors are art equivalent structures for use as actuators in parking barrier apparatuses. Worsham further teaches remotely controlled actuators are advantageously provided with "an electric motor is preferred due to the precision to which the stroke of the plunger may be controlled, the energy efficiency...the lack of backlash and mechanical slack between" moving parts.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the solenoid based locking assembly with a DC motor based actuator, as taught by Worsham, in order to extend battery life of the device and provide more accurate positioning and locking of the barrier, in a desired position. See Worsham Col. 2, Ins. 28-58.

Allowable Subject Matter

7. Claims 10-12, 28, 29, 30-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dicke et al. # 4,886,232 discloses a deflectable mounting for a barrier. Geraci # 3,849,936 discloses a parking barrier. Worsham # 6,150,958 discloses a remote controlled parking barrier. WO 00/05457 reference to Boswell, is a PCT equivalent to US 6,619,629 B1 and has a publication date of 3 February 2000.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 703 305-0135. The examiner can normally be reached on Mon-Fri, 8-2 PM, 6-8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Raymond Addie
Patent Examiner
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1/25/05